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RAJYA SABHA

The following report of the Joint Committee of the Houses of Parliament on the Bill to provide for the supervision and control of orphanages, homes for neglected women or children and other like institutions and for matters connected therewith, was presented to Rajya Sabha on the 30th November, 1959:—

Composition of the Joint Committee

Members

RAJYA SABHA

1. Dr. W. S. Barlingay
2. Shri Deokinandan Narayan
3. Shrimati Savitry Devi Nigam
4. Shri Ram Sahai
5. Shri M. H. Samuel
6. Shri D. A. Mirza
7. Shri N. C. Sekhar
8. Shri Kamta Singh
9. Shri V. Venkataramana; and
10. Shri Kailash Bihari Lall (*the mover*)

LOK SABHA

1. Shri Asoke K. Sen
2. Shri R. M. Hajarnavis

(1235)

3. Shri K. V. Ramakrishna Reddy
4. Kumari Maniben Vallabhbhai Patel
5. Shri B. L. Chandak
6. Shri S. A. Agadi
7. Dr. N. C. Samantsinhar
8. Pandit Mukat Behari Lal Bhargava
9. Shri Ansar Harvani
10. Shri Bhagwan Din
11. Shrimati Renuka Ray
12. Shri Nek Ram Negi
13. Shri A. Doraiswami Gounder
14. Shri K. K. Warior
15. Shri Khushwaqt Rai
16. Shri Ram Garib
17. Shri Bibhuti Bhushan Das Gupta
18. Shri Bhaurao Krishnarao Gaikwad
19. Shri Mohammad Tahir
20. Shri Diwan Chand Sharma.

REPORT OF THE JOINT COMMITTEE

1. I, the Chairman of the Joint Committee to which the Bill* to provide for the supervision and control of orphanages, homes for neglected women or children and other like institutions and for matters connected therewith was referred, having been authorized to submit the report on their behalf, present this/their report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Rajya Sabha on the 8th May, 1959. The motion for reference of the Bill to a Joint Committee of the Houses (*vide* Appendix I) was moved on the 21st August 1959 by Shri Kailash Bihari Lall (Bihar) and was adopted by the House on the 4th September, 1959.

3. The Lok Sabha discussed the said motion on the 11th September 1959 and concurred in it on the same day (*vide* Appendix II).

4. The message from the Lok Sabha was reported in the Rajya Sabha on the 11th September, 1959.

5. The report of the Joint Committee was to be presented on the 23rd November, 1959. The Committee was however granted extension of time up to the 30th November, 1959.

6. The Committee held eight sittings in all.

7. The first sitting of the Committee was held on the 14th September, 1959. The Committee at this sitting held a preliminary discussion on the programme of work and decided that a Press Note be issued inviting interested parties to send memoranda on the Bill for consideration of the Committee by the 8th October, 1959.

8. Memoranda on the Bill were received by the Committee from different associations and individuals (as mentioned in Appendix III) and the same were circulated to the members.

9. At the second meeting held on Thursday, the 15th October, 1959, the Committee decided to request the Central Social Welfare Board and the Bharat Sewak Samaj to send their views on the Bill and to depute representatives to attend the meetings of the Committee. In view of the request made by various individuals and

*Published in Part II, Section 2 of the Gazette of India Extraordinary dated the 8th May, 1959.

institutions to extend the time for submitting their memoranda on the Bill, the Committee decided to extend the time for such submission up to the 2nd November, 1959.

10. The Committee then had a general discussion on the provisions of the Bill which discussion continued to the third meeting of the Committee held on Friday, the 16th October, 1959.

11. In the fourth meeting held on the 17th October, 1959, the Committee discussed the amendments given notice of by the members and took up clause by clause consideration of the Bill.

12. In the fifth meeting held on the 9th November, 1959 and in the Sixth meeting held on the 10th November, 1959, the Committee took up and completed the clause by clause consideration of the Bill.

13. The amendment given notice of by Shri Khushwaqt Rai a member of the Joint Committee to Clause 10 (original clause 9) of the Bill (See Appendix IV) was considered by the Chairman of the Joint Committee who directed Shri Khushwaqt Rai to obtain the recommendation of the President as required by rule 83 of the Rules of Procedure and Conduct of Business in the Council of States. The Committees were informed that the matters raised by the said amendment were still under the consideration of Government.

14. At the 7th meeting held on the 24th November, 1959, the Committee considered the various amendments suggested by the draftsman based on the decisions taken by them in their sixth meeting and adopted the same. The Bill as amended as a whole was considered and adopted.

15. The Committee considered and adopted the Report on the 30th November, 1959.

16. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

17. *Clause 2 para (e).*—The Committee consider that the managing committee should specifically appoint one of its members as the manager to discharge the functions of a manager under the Bill. The definition of 'manager' has been amended accordingly.

Original para (g).—The Committee feel that the Board itself should be the recognising authority and should consequently have the power to grant or refuse certificates of recognition. Sub-clause

(g) has accordingly been deleted and throughout the Bill the words "recognising authority" have been changed into "Board".

18. *Clause 4.*—The amendment is of a drafting nature.

19. *Clause 5.*—The Committee consider that the Board should be sufficiently representative of the interests concerned and the clause has been amended in order to provide for representation of the State Legislatures, homes in the States and the State Social Welfare Officers. Provision has also been made for nominating suitable persons including women to the Board.

The Committee also feel that the Chairman of the Board should be elected by the members of the Board from among themselves and that the State Government should have power to appoint a member of the Board to be its Chairman only at the time of the first constitution of the Board. Necessary changes have been made in the clause.

20. *Clause 6 (new clause).*—The Committee feel that the term of office of a member of the Board should be five years and that provision should be made in the Bill to fill casual vacancies. The clause has been amended accordingly.

21. *Clause 7 (original clause 6).*—The Committee feel that the Board's function should not be merely advisory and that as the power to grant a certificate has been entrusted to the Board itself under clause 15, sub-clause (1) (a) is unnecessary.

The other amendments are of a drafting nature.

22. *Clause 9 (original clause 8).*—The Committee are of the opinion that when inspection is made under this clause of any home or part thereof where there are females, it should be done in the presence of two respectable women of the locality. A proviso has accordingly been added.

23. *Clause 10 (original clause 9).*—The Committee feel that specific mention should be made in the Bill regarding the grants to be made to the Board by Government. The clause has been suitably recast.

24. *Clauses 14 and 15 (original clauses 13 and 14).*—The amendments made in these clauses are consequential.

25. *Clause 16 (original clause 15).*—The Committee feel that the certificate of recognition granted to a home should specify—

(i) the minimum standards regarding boarding lodging, clothing, sanitation, health and hygiene; and

- (ii) the standard of education or training to be provided for the inmates of the home, in case the education or training of its inmates is undertaken.

The Committee further feel that in the case of a home for females the certificate should be deemed to include a condition to the effect that the person in charge thereof shall ordinarily be a woman. Sub-clause (1) has been amended accordingly.

The changes made in sub-clauses (2) and (3) are consequential.

26. *Clause 17 (original clause 16).*—The Committee consider that when a certificate of recognition is revoked, the grounds for revocation should be communicated to the person concerned. Necessary addition to this effect has been made in sub-clause (1).

27. *Clause 18 (original clause 17).*—The Committee are of the opinion that, as the Board is to grant certificates of recognition, appeals under this clause against the orders of the Board should lie to the State Government or any other authority specified by it. The clause has been amended suitably.

28. *Clause 19 (original clause 18).*—The Committee are of the view that the manager should be entitled to apply for withdrawal of a certificate granted in respect of the home only if he is specifically authorised in that behalf by the managing committee. Sub-clause (1) has been amended accordingly. The amendments made in sub-clause (2) are of a consequential nature.

29. *Clause 20 (original clause 19).*—The Committee feel that all the members of the managing committee of a home should not be considered to be the managers thereof but the members of the Committee should appoint one from among themselves to be the manager of the home for the purposes of the Act. Sub-clause (1) has been amended accordingly.

30. *Original clause 20.*—The clause has been omitted as in the opinion of the Committee it was not necessary to arm the Board with such wide powers as proposed in the clause.

31. *Clause 21.*—The Committee have modified the clause as a consequence of the amendments already made in clause 16.

32. *Clause 22.*—The Committee feel that the power to discharge an inmate of a home may vest in the manager instead of in the managing committee of a home since the Committee itself will appoint the manager for the purposes of the Act. Necessary changes have, therefore, been made in sub-clause (1).

The Committee are of the view that the Board or an officer specified by it should, when giving its or his approval to the marriage of a minor female inmate, record the reasons therefor in writing. Sub-clause (2) has been amended accordingly.

33. *Clause 23.*—The Committee are of the opinion that the period specified in the clause for sending the report of the death of an inmate of a home, viz., a fortnight, is too long, and that the report should be submitted immediately after the occurrence of death. Necessary changes have been made in this clause.

34. *Clauses 24, 25, 26 and 27.*—The amendments made are of a clarificatory or consequential nature.

35. *Clause 28 (new clause).*—The Committee feel that the State Government should be empowered after consultation with the Board to exempt such classes of homes or home, as the case may be, from the operation of all or any of the provisions of the Bill, as they think fit. The Committee further feel that such exemption should be reviewed by the Government concerned in consultation with the Board at intervals not exceeding two years.

The new clause gives effect to these two decisions of the Committee.

36. *Clause 29 (original clause 28).*—The amendment made in sub-clause (2) is consequential to the changes made in clause 5.

37. *Clause 30 (original clause 29).*—Sub-clause (2) (d) has been deleted in view of the deletion of original clause 20.

The other changes made in sub-clause (2) are consequential.

38. The Joint Committee recommend that the Bill as amended be passed.

NEW DELHI;
November 30, 1959.

W. S. BARLINGAY,
Chairman of the Joint Committee.

MINUTES OF DISSENT

I

In my view, the Bill is not necessary. This is a fundamental point of view which, in view of the tacit approval of both the Houses implicit in referring the Bill to a Joint Select Committee, I could not place before the Committee. I do so now in this Minute.

Charitable, philanthropic and humanitarian work has religious impulses for its inspiration. Such impulses are personal, and the activity motivated takes on a personal character. They cannot be regulated. They have service as motto. Such work must be unhampered by rules or regulations, untrammelled by authority and underterred in scope. It is just the kind of work for individuals or religious institutions actuated by a spirit of service. Any interference in such work discourages impulse and dries up charity.

The State, though it may help in such work where circumstances warrant, is, in my opinion, least qualified to undertake charitable work or missions of mercy.

The State is an impersonal body and cannot be expected to possess the emotions that go into charitable work. At best, it can interfere with institutions doing such work badly; and at times, institutions doing good work suffer by the pervasive nature of legislation.

What will happen to a person doing such work voluntarily, I ask, if some one who has no such impulses or experience in such work wants to regulate the work? Result is—that person will be discouraged and leaves the work, or does not endow his manfience for it, and the institution is closed down.

True, the object of the sponsor of the Bill is to check malpractices in some such institutions. I am in sympathy with it. But, I submit that there are statutes already in force which serve the purpose adequately, *e.g.*, the Women's and Children's Institutions (Licensing) Act, 1956 and Prevention of Immoral Traffic in Women Act, 1954. Besides, Uttar Pradesh has an excellent Act for this purpose, an Act which, in my opinion, is better than the Bill under reference.

I should like to apply two tests to this Bill, and if the answers are satisfactory, my observations will be void—(1) will it encourage

charity and humanitarianism; (2) will it conduce to multiply charitable homes.

My answer is that this Bill will deter and destroy both charity and charitable homes.

To corroborate my view-point, I shall refer only to Chapters II, III and IV dealing with the powers and functions of the Board of Control. In my view, they are wide and constricting. They will not only discourage charity but also hamper the work of the institutions. They will introduce extraneous influences, perhaps even political influences, into the working of charitable homes. They will retard initiative and service. Instead of multiplying such homes, they will reduce the number.

Obviously, well-run institutions do not need the Bill or a Board of Control. To encourage them in their work and to save them from the constricting clauses of the Bill, there was a clear need for their exemption and the Select Committee was good enough to adopt Section 3(a). If this small provision will save charity and protect selfless service even to a small degree, I shall feel happy.

M. H. SAMUEL.

NEW DELHI;

The 21st November, 1959.

II

I was not able to attend the meetings of the Select Committee except the last one. While the object of this Bill is laudable, there is likely to be some duplication. Clause 5(i) of this Bill provides that the State Government may establish a Board of Control for supervision of orphanages and charitable homes. It is also contemplated that this Board would give certificate of recognition to homes. Under the scheme for giving grants-in-aid, the Central Social Welfare Board through its agencies exercises some amount of supervision. In the recent report of the Study Team on Social Welfare and Welfare of Backward Classes, the following recommendations have been made:—

- (1) The initiative for defining minimum institutional standards should be given by the Central Social Welfare Board; and
- (ii) In defining and revising these standards and introducing suitable regional variations, the Central Social Welfare Board should work in close co-operation with State Gov-

ernments, State Boards and experienced social workers and experts.

Further, it has been recommended that:

"The State Governments should organize a system of recognition for *all welfare institutions* on the basis of certain prescribed institutional standards. The field counselling service should provide the necessary inspectorial assistance for making this programme of recognition more effective."

The above would cover all welfare institutions including orphanages and other charitable homes. Many State Governments have signified their willingness to bring in these measures and the matter is now under consideration of the Plan Projects Committee of the Planning Commission.

The Orphanages and Other Charitable Homes (Supervision and Control) Bill, 1959 which we are now considering in the Joint Committee would provide for the setting up of separate boards of control under the State Governments for the specific purpose of orphanages and charitable homes. If the State Governments are provided with the wider purpose of the recognition of the minimum standards of welfare institutions, then perhaps the boards of control might not be necessary as the State Governments would be able to utilise the State Social Welfare Advisory Boards and their own Social Welfare Departments. While this Act may be enforced immediately, there may be some delay in making other arrangements. It will, however, be for the State Governments to decide whether they would not find it more suitable to have the machinery for the recognition of all welfare institutions which would avoid the duplication of separate control boards.

Apart from the difficulty of duplication, I find that the Report as it emerges from the Joint Committee has not made any specific provision that the managers of homes for women should invariably be women nor does it provide that in case of homes for women, the committee of management should consist of majority of women. I am strongly of the opinion that in the present context for all homes for women, the managing committees should mainly be in the hands of women and that such a provision is absolutely necessary.

RENUKA RAY.

NEW DELHI;
The 27th November, 1959.

THE ORPHANAGES AND OTHER CHARITABLE HOMES (SUPERVISION AND CONTROL) BILL, 1959

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

CLAUSES

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2. Definitions.
3. Act not to apply to certain institutions.
4. Effect of Act on instruments governing recognised homes.

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THE BOARD OF CONTROL AND ITS POWERS AND FUNCTIONS

5. Board of Control, its constitution etc.
6. Term of office and casual vacancies.
7. Functions of the Board.
8. Power of the Board to give directions to manager of a recognised home.
9. Power of inspection.
10. Funds of the Board.
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12. Delegation of Powers.

CHAPTER III

RECOGNITION OF HOMES

13. Homes not to be run without certificate.
14. Application for certificate.
15. Grant or refusal of certificate.
16. Contents of certificates.

17. Revocation of certificate.
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CHAPTER IV

MANAGEMENT OF RECOGNISED HOMES

20. Managing Committee.
21. Duty of Manager.
22. Discharge of inmates of home.
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MISCELLANEOUS

24. Penalties.
25. Sanction for prosecutions.
26. Persons performing functions under Act to be public servants.
27. Protection of acts done in good faith.
28. Power of State Government to exempt homes.
29. Power of State Government to make rules.
30. Power of Board to make regulations.
31. Repeal.

Bill No. IXB of 1959**THE ORPHANAGES AND OTHER CHARITABLE
HOMES (SUPERVISION AND CONTROL) BILL, 1959**

(AS AMENDED BY THE JOINT COMMITTEE)

(Words side-lined or under-lined indicate the amendments suggested by the Committee; asterisks indicate omissions.)

A

BILL

to provide for the supervision and control of orphanages, homes for neglected women or children and other like institutions and for matters connected therewith.

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- 5 1. (1) This Act may be called the Orphanages and other Charitable Homes (Supervision and Control) Act, 1959. Short title,
extent and
commence-
ment.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

10 (3) It shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Board" means the Board of Control established under section 5;

15 (b) "certificate" means the certificate of recognition granted under section 15;

(c) "child" means a boy or girl who has not completed the age of eighteen years;

(d) "home" means an institution, whether called an orphanage, a home for neglected women or children, a widow's home, or by any other name, maintained or intended to be maintained for the reception, care, protection and welfare of women or children;

(e) "manager" means a member of the managing committee appointed as such by the Committee under section 20;

(f) "managing committee" means the committee of management referred to in section 20;

* * *

(g) "recognised home" means a home in respect of which a certificate has been granted;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "woman" means a female who has completed the age of eighteen years.

Act not to
apply to
certain
institutions.

3. Nothing in this Act shall apply to—

(a) any hostel or boarding house attached to, or controlled or recognised by, an educational institution; or

(b) any protective home established under the Suppression of Immoral Traffic in Women and Girls Act, 1956; or

104 of 1956.

(c) any reformatory, certified or other school, or any home or workhouse, governed by any enactment for the time being in force.

Effect of Act
on instru-
ments govern-
ing recog-
nised homes.

4. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any instrument governing a recognised * * * home.

CHAPTER II

THE BOARD OF CONTROL AND ITS POWERS AND FUNCTIONS

Board of
control, its
constitution,
etc.

5. (1) The State Government may, by notification in the Official Gazette, establish a Board of Control for the control and supervision of homes in the State.

(2) The Board shall consist of the following members, namely:—

(a) three members of the State Legislature to be elected by the members thereof: provided that where the State Legislature consists of two Houses, two members shall be elected by

the members of the Legislative Assembly from among themselves and one member shall be elected by the members of the Legislative Council from among themselves;

5 (b) five members of the managing committees in the State, to be elected by such committees from among themselves, each such committee having one vote only for this purpose;

(c) the officer in charge of social welfare work in the State, to be nominated by the State Government;

10 (d) six members to be nominated by the State Government, of whom not more than one shall be a member of Parliament from the State and not less than three members shall be women.

(3) If for any reason the officer referred to in clause (c) of sub-section (2) is unable to attend any meeting of the Board, he may
15 depute any officer subordinate to him to attend such meeting.

(4) The Chairman of the Board shall be elected by the members of the Board from among themselves:

20 Provided that at the time of the first establishment of the Board, one of the members of the Board shall be nominated by the State Government to be its Chairman.

6. (1) Save as otherwise provided in this section, the term of office of a member of the Board shall be five years from the date of his election or nomination or until his successor has been duly
Term of office and casual vacancies.
elected or nominated, whichever is longer:

25 Provided that the term of office of a member elected under clause (a) or clause (b) of sub-section (2) of section 5, or of a member of Parliament nominated under clause (d) of sub-section (2) of section 5, shall come to an end as soon as he ceases to be a member of the House of the State Legislature which elected him,
30 the managing committee or Parliament, as the case may be.

(2) A member may at any time resign his office by giving notice in writing to the State Government and on such resignation being notified in the Official Gazette by that Government, the seat of such member shall become vacant.

35 (3) A casual vacancy in the Board shall be filled by fresh election or nomination, as the case may be; and the term of office of a member elected or nominated to fill such vacancy shall be the remainder of the term of the member in whose place he is elected or nominated.

40 (4) Members of the Board shall be eligible for re-election or re-nomination.

(5) No act done or proceeding taken by the Board shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

* * * * *

Functions of
the Board.

7. (1) It shall be the duty of the Board to * * * * *supervise and control generally all matters relating to the management of homes in accordance with the provisions of this Act; and *exercise such other powers and perform such other functions as may be prescribed by or under this Act.

(2) In the performance of its functions under this Act, the Board shall be bound by such directions as the State Government may give to it.

Power of
Board to
give direc-
tions
to manager
of a recog-
nised home.

8. Subject to the directions, if any, given under sub-section (2) of section 7, the Board may, from time to time, give such general or special directions to the manager of a recognised home as it thinks fit for the efficient management of the home and the manager shall comply with such directions.

Power of
inspection.

9. Any member of the Board, or any officer of the Board authorised in writing by it in this behalf, by general or special order, may enter at all reasonable times any home for the purpose of ascertaining whether the provisions of this Act or of any rules, regulations, directions or orders made thereunder are being complied with and may require the production, for his inspection, of any document, book, register or record kept therein and ask for any information relating to the working of the home:

Provided that no such member or officer shall enter any home or part thereof where there are females, except in the presence of two respectable women of the locality.

Funds of
the Board.

10. The funds of the Board shall consist of—

- (a) contributions, subscriptions, donations or bequests made to it by any person; and
- (b) grants made to it by the State Government or any local or other public body.

Staff of
Board.

11. Subject to such rules as may be made by the State Government in this behalf, the Board may, for the purpose of enabling it to perform efficiently its functions or exercise its powers under this Act, appoint such officers or other employees as it may think fit and determine their functions and conditions of service.

Delegation
of powers.

12. Subject to the control of the State Government, the Board may, by general or special order in writing and subject to such conditions and limitations, if any, as may be specified therein, delegate

to the Chairman or any other member or any officer thereof such of its powers and functions under this Act, as it may deem necessary, for the efficient carrying on of its administration.

CHAPTER III

5

RECOGNITION OF HOMES

13. After the commencement of this Act, no person shall maintain or conduct any home except under, and in accordance with, the conditions of a certificate of recognition granted under this Act. Homes not to be run without certificate.

10 14. Every person desiring to maintain or conduct a home shall make an application for a certificate of recognition to the Board in such form and containing such particulars as may be prescribed: Application for certificate.

Provided that a person maintaining or conducting a home at the commencement of this Act shall be allowed a period of three months from such commencement to make an application for such certificate.

15 15. (1) On receipt of an application under section 14, the Board, after making such inquiry as it considers necessary, may, by order in writing, either grant a certificate or refuse to grant it. Grant or refusal of certificate.

20 (2) No order refusing to grant a certificate shall be made until an opportunity is given to the applicant to be heard in the matter and where a certificate is refused, the grounds for such refusal shall be communicated to the applicant in the prescribed manner.

(3) No fee shall be charged for the grant of a certificate.

(4) A certificate shall not be transferable.

16. (1) The certificate shall specify—

Contents of certificate.

25 (a) the name and location of the recognised home;

(b) the name* of the manager* thereof;

(c) the nature of the home, whether for women generally or for widows or for children generally or for orphans or for one or more of these classes;

30 (d) the number of inmates to be taken by the home;*

(e) the minimum standards regarding boarding, lodging, clothing, sanitation, health and hygiene which, having regard to the conditions of the locality in which the recognised home is situated and its resources, should be complied with in the home;

(f) the standard of education or training to be provided for the inmates of the home, in case the education or training of its inmates is undertaken; and

(g) such other conditions and particulars as may be prescribed: 5

Provided that there shall be deemed to be included in the certificate granted in respect of a home for females a condition to the effect that the person in charge thereof, whether called superintendent or otherwise, shall ordinarily be a woman.

(2) The Board shall not, ordinarily, permit any recognised home 10 to admit as inmates, persons of different sexes, but may do so for reasons to be recorded and subject to such conditions and limitations as may appear to it to be in the public interest.

(3) Without the previous written consent of the Board, no 15 recognised home shall—

(a) change its name or location as specified in the certificate in respect of it; or

(b) alter the purpose of any service specified therein.

Revocation
of certifi-
cate.

17. (1) The Board may, without prejudice to any other penalty to which a person to whom a certificate has been granted may be 20 liable under this Act, revoke the certificate—

(a) if it is satisfied that the home is not being conducted in accordance with the conditions laid down in the certificate; or

(b) the management of the home is being persistently 25 carried on in an unsatisfactory manner or is being carried on in a manner highly prejudicial to the moral and physical well-being of the inmates; or

(c) the home has, in the opinion of the Board, otherwise rendered itself unsuitable for that purpose:

Provided that no order of revocation shall be made under this 30 sub-section until an opportunity is given to the person to show cause why the certificate should not be revoked;

and in every case of revocation, the grounds therefor shall be communicated to the person in the prescribed manner.

(2) Where a certificate in respect of a home is revoked under 35 sub-section (1), such home shall cease to function—

(a) where an appeal has not been preferred under section 18 against the order of revocation, immediately on the expiration of the period prescribed for such appeal;

(b) where such appeal has been preferred, but the order of revocation is upheld, from the date of the appellate order.

(3) On any home ceasing to function under sub-section (2), the Board may direct that any woman or child who is an inmate of such home shall be—

(a) restored to the custody of her or his parent, husband or lawful guardian, as the case may be, or

(b) transferred to another recognised home, or

(c) entrusted to the care of any other fit person:

10 Provided that no woman shall be entrusted to the care of any person other than a woman.

18. Any person aggrieved by an order of the Board refusing to Appeals. grant a certificate or revoking a certificate may, in such manner and within such period as may be prescribed, prefer an appeal to
15 the State Government or to such authority as may be specified by it against such refusal or revocation:

Provided that the State Government or the authority so specified, as the case may be, may admit an appeal after the expiry of the period so prescribed, if it is satisfied that the applicant was
20 prevented by sufficient cause from preferring the appeal in time.

19. (1) The manager of a home, if specially authorised in this behalf by resolution of the managing committee, may, on giving six
months' notice in writing to the Board of his intention so to
do, apply for the withdrawal of the certificate granted in respect
25 of that home and on the expiration of the said period from the date of notice, the certificate shall, unless before that time the notice is withdrawn, cease to have effect; and the home shall cease to function.

Surrender of certificate and its effect.

(2) No woman or child shall be received into any such home after the date of such notice; but nothing in this section shall be
30 construed to affect the obligation of the manager to comply with all the requirements of this Act and the rules, regulations, directions and orders thereunder until the certificate ceases to take effect under sub-section (1).

CHAPTER IV

35 MANAGEMENT OF RECOGNISED HOMES

20. (1) There shall be a managing committee in charge of the management of every recognised home and the members of the
managing committee shall appoint a member thereof to be the
manager of such home for the purposes of this Act. Managing committee.

(2) The constitution, powers and functions of the managing committee and the term of office of the members thereof shall be such as may be provided in the constitution pertaining to such home.

Duty of
manager.

21. It shall be the duty of the manager to comply with all the requirements of this Act and the rules, regulations, directions and orders thereunder in respect of every woman or child admitted into the recognised home until the woman is rehabilitated or the child completes the age of eighteen years or until the certificate ceases to have effect. 5

Discharge
of inmates
of home.

22. (1) Subject to the regulations, if any, made by the Board, if the manager of a home is satisfied that an inmate of the home has become fit to earn his or her livelihood or is otherwise fit to be discharged from the home, he may discharge such inmate. 10

(2) Notwithstanding anything contained in sub-section (1), no female inmate of a home shall be discharged or given in marriage or entrusted to the care of any other person unless such female has made a declaration before the Board or an officer specified by it in this behalf that she consents to such discharge, marriage or entrustment, as the case may be, and, if the inmate to be given in marriage is a minor, unless the Board or officer, as the case may be, has, after recording the reasons in writing, given its or his approval thereto. 20

Reports
regarding
deaths of
inmates.

23. The manager shall, immediately after the occurrence of any death among the inmates of the home, send a written report thereof to the Board explaining the cause of death to the best of his knowledge. 25

CHAPTER V

MISCELLANEOUS

Penalties

24. Any person who fails to comply with any of the provisions of this Act or of any rule, regulation, direction or order thereunder or any of the conditions of a certificate shall be punishable in the case of a first offence with imprisonment which may extend to three months or with fine which may extend to two hundred and fifty rupees or with both, and in the case of a second or subsequent offence, with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both. 35

Sanction for
prosecutions

25. No prosecution under this Act shall be instituted except with the previous sanction of the District Magistrate or the Chief Presidency Magistrate, as the case may be.

26. The members of the Board* * * and every person empowered by the Board to exercise any of its powers under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Persons performing functions under Act to be public servants.

27. No suit, prosecution or other legal proceeding shall lie against any person who performs any function under this Act for anything done or intended to be done in good faith under this Act or any rule, regulation, direction or order thereunder.

Protection of acts done in good faith.

28. (1) If, after consultation with the Board, the State Government is satisfied that the circumstances in relation to any class of homes or any home or such that it is neither necessary nor expedient that this Act should apply thereto, it may, by notification in the Official Gazette, and for reasons to be specified therein, exempt, subject to such conditions, restrictions or limitations, if any, as it may think fit to impose, such class of homes or home, as the case may be, from the operation of all or any of the provisions of this Act or of any rule or regulation made thereunder.

Power of State Government to exempt homes.

(2) Every notification issued under this section granting an exemption shall be reviewed in consultation with the Board at intervals not exceeding two years, but nothing herein contained shall affect the power of the State Government to amend, vary or rescind any such notification at any time in consultation with the Board.

29. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power of State Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely—

(a) all matters relating to, or in connection with, elections to the Board under clause (b) of sub-section (2) of section 5 and the election of the Chairman;

(b) the disqualifications for membership of the Board and the procedure to be followed in removing a member who is or becomes subject to any disqualification;

(c) the funds of the Board;

(d) the travelling and other allowances to be drawn by members of the Board;

(e) the appointment of staff for enabling the Board to perform its functions efficiently under this Act and their recruitment and conditions of service;

(f) the calling of returns and other information by the State Government from the Board and the managing committees;

(g) the form in which an application for certificate of recognition may be made, the particulars to be contained in such application and the form in which, and the conditions subject to 5 which, such certificate may be granted;

(h) the maintenance of registers and accounts by the Board and the audit of its accounts;

(i) any other matter which is to be, or may be, prescribed.

(3) All rules made under this Act shall, as soon as may be after 10 they are made, be laid before the State Legislature.

Power of
Board to
make regu-
lations.

30. (1) The Board may, with the previous approval of the State Government, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules made thereunder, for enabling it to perform its functions under this Act. 15

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely—

(a) the time and place of the meetings of the Board, the procedure to be followed in regard to the transaction of business 20 at such meetings and the quorum necessary for the transaction of business at such meetings;

(b) the maintenance of the minutes of meetings of the Board and the transmission of copies thereof to the State Government; 25

(c) the appointment of sub-committees and local committees and of persons by the Board for the purpose of assisting it in performing its functions under this Act; * * *

(d) the supervision and control of the management of recognised homes; 30

(e) the inspection of homes;

(f) the calling of returns and other information by the Board from managing committees;

(g) the reception, care, treatment, maintenance, protection, training, welfare, instruction, control and discipline of inmates 35 in recognised homes; * * *

(h) visits to, and communication with, inmates of recognised homes and the grant of permission to such inmates to absent themselves for short periods;

(i) the discharge of inmates from recognised homes, their transfer from one recognised home to another and the reports to be sent by managers to the Board;

5 (j) any other matter in respect of which provision is, in the opinion of the Board, necessary for the efficient supervision and control of homes.

(3) The State Government may, by notification in the Official Gazette, amend, vary or rescind any regulation which it has approved; and thereupon the regulation shall have effect accordingly, 10 but without prejudice to the exercise of the powers of the Board under sub-section (1).

105 of 1956. 31. (1) As from the date of the coming into force in any State of this Act, the Women's and Children's Institutions (Licensing) Act, 1956, and any other Act corresponding to this Act in force in 15 that State immediately before such commencement, shall stand repealed. Repeal.

(2) Notwithstanding such repeal, anything done or any action taken (including any direction given, any register or rule or order made or any restriction imposed) under the said Acts shall, in so far 20 as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the provisions aforesaid, as if they were in force when such thing was done or such action was taken, and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

APPENDIX I

(Vide para 2 of the Report)

**Motion in the Rajya Sabha for reference of the Bill to a
Joint Committee**

"That the Bill to provide for the supervision and control of orphanages, homes for neglected women or children and other like institutions and for matters connected therewith be referred to a Joint Committee of the Houses consisting of 30 members, 10 members from this House, namely:—

1. Dr. W. S. Barlingay
2. Shri Deokinandan Narayan
3. Shrimati Savitry Devi Nigam
4. Shri Ram Sahai
5. Shri M. H. Samuel
6. Shri D. A. Mirza
7. Shri N. C. Sekhar
8. Shri Kamta Singh
9. Shri V. Venkataramana; and
10. Shri Kailash Bihari Lall (*the mover*)

and 20 members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that in other respects, the Rules of Procedure of this House relating to Select Committees shall apply with such variations and modifications as the Chairman may make;

that the Committee shall make a report to this House by the first day of the next session; and

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee."

APPENDIX II

(Vide para 3 of the Report)

Motion in the Lok Sabha

"That this House concurs in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill to provide for the supervision and control of orphanages, homes for neglected women or children and other like institutions and for matters connected therewith by Shri Kailash Bihari Lall, made in the motion adopted by Rajya Sabha at its sitting held on the 4th September, 1959 and communicated to this House on the 7th September, 1959 and resolves that the following members of Lok Sabha be nominated to serve on the said Joint Committee, namely:—

1. Shri Asoke K. Sen
2. Shri R. M. Hajarnavis
3. Shri K. V. Ramakrishna Reddy
4. Kumari Maniben Vallabhbhai Patel
5. Shri B. L. Chandak
6. Shri S. A. Agadi
7. Dr. N. C. Samantsinhar
8. Pandit Mukat Behari Lal Bhargava
9. Shri Ansar Harvani
10. Shri Bagwan Din
11. Shrimati Renuka Ray
12. Shri Nek Ram Negl
13. Shri A. Doraiswami Gounder
14. Shri K. K. Warior
15. Shri Khushwaqt Rai
16. Shri Ram Garib
17. Shri Bibhuti Bhushan Das Gupta
18. Shri Bhaurao Krisnnarao Gaikwad
19. Shri Mohammad Tahir
20. Shri Diwan Chand Sharma."

S. N. MUKERJEE,

Secretary.

